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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,137	10/24/2003	Mesut Gunduc	BEAS-01119US1	1772
23910 7590 04/16/2008 FLIESLER MEYER LLP 650 CALIFORNIA STREET 14TH FLOOR SAN FRANCISCO, CA 94108				
EXAMINER				
SHEER, CRISTINA O				
ART UNIT		PAPER NUMBER		
3621				
MAIL DATE		DELIVERY MODE		
04/16/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/693,137

Applicant(s)

GUNDUC ET AL.

Examiner

CRISTINA OWEN SHERR

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-9,12,13,16-20,29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2,5-9,12-13,16-20,29-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This communication is in response to applicant's amendment filed December 7, 2007. Claims 1-2, 5-9, 12, 13, 16-20, and 29-30 are currently pending in this case. Claims 1, 2, 12, 13, 29, and 30 have been amended. Claims 10 and 21 have been currently canceled.

Response to Arguments

2. Applicant's arguments with respect to claims 1-2, 5-9, 12, 13, 16-20, and 29-30 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 5-10, 12, 13, 16-21 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kampe et al., U.S. Patent 6,854,069 [Kampe].

5. Regarding claims 1, 12, and 29-30:

The recitation, " A system/ method for providing a high availability clustering ..., A system/method for providing resource groups in a cluster ..., and A system/method for high availability clustering,..." has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a method, a system, an apparatus, etc. and the portion of the claim following the

preamble is a self-contained description of the method or the system, etc., not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951)

6. Kampe discloses :

a computer that allows a user or application to access a set of resources of various resource types, including application servers, said resources available at said computer or at another computer; for example Fig. 1, Col. 4-5, lines 55-67 and 1-26 respectively.

a cluster server that operates at said computer and that allows access to said set of resources; for example Col. 8, lines 16-50.

a resource interface provided by said cluster server that allows the cluster server to communicate with said set of resources and a plurality of plugins that are plugged into the resource interface to provide a mapping between the system's resource management functions and any resource type-specific functionality, wherein each one of said plurality of plugins provides access to a pool of resources of a particular resource type, and wherein each pool of resources includes a plurality of resources of that particular type for example Col. 5, lines 35-40, Col 6, lines 35-45.

7. Kampe discloses the claimed invention except for wherein additional plugins may be included in the resource interface for other resource types. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to wherein additional plugins may be included in the resource interface for other resource types, since it has been held that mere duplication of the essential working parts of a

device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8 and wherein adding additional computers with cluster servers and resource interfaces operating thereon can extend the system for example Col. 5, lines 45-60.

8. Regarding claims 2 and 13:

Kampe further discloses wherein each of said cluster servers includes a heartbeat interface that provides heartbeat information to other cluster servers at said other application servers. for example Col. 13, lines 23-33.

9. Regarding claims 5 and 16:

Kampe further discloses wherein the system includes a cluster administration utility for accessing and administering the cluster server using remote method invocation calls. Col. 20, lines 15-23.

10. Regarding claims 6 and 17:

Kampe further discloses wherein each resource has a resource type associated with it. Col. 20, lines 15-23.

11. Regarding claims 7 and 18:

Kampe further discloses wherein resources are the object instances of their respective resource types. Col. 20, lines 15-23.

12. Regarding claims 8 and 19:

Kampe further discloses wherein a resource is any of a computer, Internet protocol address, disk, database, or file system or application. Col. 20, lines 15-23.

13. Regarding claims 9 and 20:

Kampe further discloses wherein the cluster server defines resource groups that include clusters of resources. Col. 9, lines 15-25.

14. Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CRISTINA OWEN SHERR whose telephone number is (571)272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on (571)272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3621

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cristina Owen Sherr
Patent Examiner, AU 3621

/Jalatee Worjloh/
Primary Examiner, Art Unit 3621